

LEGISLATIVE BILL 37

Approved by the Governor August 15, 2002

Introduced by Appropriations Committee: Wehrbein, 2, Chairperson;
Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17; Foley, 29;
Kruse, 13; D. Pederson, 42; Thompson, 14

AN ACT relating to the Nebraska Telecommunications Universal Service Fund; to amend section 86-1405, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1105, section 202, and Laws 2002, LB 1211, section 13; to provide for certain transfers; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 86-1405, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1105, section 202, and Laws 2002, LB 1211, section 13, is amended to read:

~~86-1405.~~ (1) The Nebraska Telecommunications Universal Service Fund is hereby created. The fund shall provide the assistance necessary to make universal access to telecommunications services available to all persons in the state consistent with the policies set forth in the Nebraska Telecommunications Universal Service Fund Act. Only eligible telecommunications companies designated by the commission shall be eligible to receive support to serve high-cost areas from the fund. A telecommunications company that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purpose of the act.

(2) Notwithstanding the provisions of section 25 of this act, in addition to other provisions of the act, and to the extent not prohibited by federal law, the commission:

(a) Shall have authority and power to subject eligible telecommunications companies to service quality, customer service, and billing regulations. Such regulations shall apply only to the extent of any telecommunications services or offerings made by an eligible telecommunications company which are eligible for support by the fund. The commission shall be reimbursed from the fund for all costs related to drafting, implementing, and enforcing the regulations and any other services provided on behalf of customers pursuant to this subdivision;

(b) Shall have authority and power to issue orders carrying out its responsibilities and to review the compliance of any eligible telecommunications company receiving support for continued compliance with any such orders or regulations adopted pursuant to the act;

(c) May withhold all or a portion of the funds to be distributed from any telecommunications company failing to continue compliance with the commission's orders or regulations;

(d) Shall require every telecommunications company to contribute to any universal service mechanism established by the commission pursuant to state law. The commission shall require, as reasonably necessary, an annual audit of any telecommunications company to be performed by a third-party certified public accountant to insure the billing, collection, and remittance of a surcharge for universal service. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited;

(e) Shall require an audit of information provided by a telecommunications company to be performed by a third-party certified public accountant for purposes of calculating universal service fund payments to such telecommunications company. The costs of any audit required pursuant to this subdivision shall be paid by the telecommunications company being audited; and

(f) May administratively fine pursuant to section 75-156 any person who violates the Nebraska Telecommunications Universal Service Fund Act.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) (a) The State Treasurer shall transfer funds from the Nebraska Telecommunications Universal Service Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balances in the General Fund and the Cash Reserve Fund are inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred which shall not exceed the amount by which the General Fund and

Cash Reserve Fund are inadequate to meet current obligations. The total of such transfers shall not reduce the Nebraska Telecommunications Universal Service Fund balance below an amount sufficient to meet the obligations on the fund for the next sixty days. Any transfers made pursuant to this subsection shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available or on June 30, 2007, whichever occurs first.

(b) Any transfer under this subsection not reversed within thirty days after the initial transfer shall accrue interest in the amount of five percent annually. Interest shall be calculated beginning on the thirty-first day after the initial transfer and continue until the transfer is completely reversed. The interest calculated shall be credited to the Nebraska Telecommunications Universal Service Fund.

(c) Any transfer of funds which has not been reversed as provided in this subsection, with accrued interest, shall be considered an encumbrance against the General Fund.

(d) This subsection terminates on June 30, 2007.

Sec. 2. Original section 86-1405, Revised Statutes Supplement, 2001, as amended by Laws 2002, LB 1105, section 202, and Laws 2002, LB 1211, section 13, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.